



Practitioner's Docket No. SEN-020

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

☒ In re application of: Adam E. Norton et al.
Application No.: 10/081,078 Group No. 2877
Filed: February 21, 2002 Examiner:
For: SMALL-SPOT SPECTROMETRY INSTRUMENT WITH REDUCED
POLARIZATION AND MULTIPLE-ELEMENT DEPOLARIZER THEREFOR

☐ Patent No.: Issued:

**NOTE: Insert name of inventor(s) and title also for patent where notification is with respect to a maintenance fee payment, also insert application number and filing date, and add Box M. Fee to address.*

Assistant Commissioner for Patents
Washington, D.C. 20231

NOTIFICATION OF ERROR IN PAYMENT OF FEE(S) AS A SMALL ENTITY
(37 C.F.R. § 1.28(c))

NOTE: 37 C.F.R. § 1.28(c): "(c) How errors in small entity status are excused. If status as a small entity is established in good faith, and fees as a small entity are paid in good faith, in any application or patent, and it is later discovered that such status as a small entity was established in error, or that through error the Office was not notified of a loss of entitlement to small entity status as required by § 1.27(g)(2), the error will be excused upon: compliance with the separate submission and itemization requirements of paragraphs (c)(1) and (c)(2) of this section, and the deficiency payment requirement of paragraph (c)(2) of this section."

NOTE: 37 C.F.R. § 1.28(c)(1): "Separate submission required for each application or patent. Any paper submitted under this paragraph must be limited to the deficiency payment (all fees paid in error), required by paragraph (c)(2) of this section, for one application or one patent. Where more than one application or patent is involved, separate submissions of deficiency payments (e.g., checks) and itemizations are required for each application or patent. See § 1.4(b)."

CERTIFICATION UNDER 37 C.F.R. §§ 1.8(a) and 1.10*
(When using Express Mail, the Express Mail label number is mandatory;
Express Mail certification is optional.)

I hereby certify that, on the date shown below, this correspondence is being:

MAILING

☒ deposited with the United States Postal Service in an envelope addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231

37 C.F.R. § 1.8(a)

37 C.F.R. § 1.10*

☒ with sufficient postage as first class mail.

☐ as "Express Mail Post Office to Addressee"

Mailing Label No. _____ (mandatory)

TRANSMISSION

☐ facsimile transmitted to the Patent and Trademark Office, (703) _____

Date: April 12, 2002

Merle P. Garcia
Signature

Merle P. Garcia

(type or print name of person certifying)

** Only the date of filing (§ 1.6) will be the date used in a patent term adjustment calculation, although the date on any certificate of mailing or transmission under § 1.8 continues to be taken into account in determining timeliness. See § 1.703(f). Consider "Express Mail Post Office to Addressee" (§ 1.10) or facsimile transmission (§ 1.6(d)) for the reply to be accorded the earliest possible filing date for patent term adjustment calculations.*

Erroneous Filing of Small Entity Statement

1. On Feb. 21, 2002, a small entity assertion was erroneously filed in this
☒ application
☐ patent
2. This assertion of small entity status in this application and the payment of fee(s) as a small entity was/were made in good faith.
3. It has now been discovered that such status as a small entity was established in error.

Itemization of the Fee(s) Erroneously Paid as Small Entity

NOTE: 37 C.F.R. § 1.28(c)(2): "Payment of deficiency owed. The deficiency owed, resulting from the previous erroneous payment of small entity fees, must be paid.

(i) Calculation of the deficiency owed. The deficiency owed for each previous fee erroneously paid as a small entity is the difference between the current fee amount (for other than a small entity) on the date the deficiency is paid in full and the amount of the previous erroneous (small entity) fee payment. The total deficiency payment owed is the sum of the individual deficiency owed amounts for each fee amount previously erroneously paid as a small entity. Where a fee paid in error as a small entity was subject to a fee decrease between the time the fee was paid in error and the time the deficiency is paid in full, the deficiency owed is equal to the amount (previously) paid in error.

(ii) Itemization of the deficiency payment. An itemization of the total deficiency payment is required. The itemization must include the following information:

(A) Each particular type of fee that was erroneously paid as a small entity, (e.g., basic statutory filing fee, two-month extension of time fee) along with the current fee amount for a non-small entity;

(B) The small entity fee actually paid, and when. This will permit the Office to differentiate, for example, between two one-month extension of time fees erroneously paid as a small entity but on different dates;

(C) The deficiency owed amount (for each fee erroneously paid); and

(D) The total deficiency payment owed, which is the sum or total of the individual deficiency owed amounts set forth in paragraph (c)(2)(ii)(C) of this section."

NOTE: 37 C.F.R. § 1.28(c)(3): "Failure to comply with requirements. If the requirements of paragraphs (c)(1) and (c)(2) of this section are not complied with, such failure will either: be treated as an authorization for the Office to process the deficiency payment and charge the processing fee set forth in § 1.17(i), or result in a requirement for compliance within a one-month non-extendable time period under § 1.136(a) to avoid the return of the fee deficiency paper, at the option of the Office."

4.

(complete the following applicable item(s))

<u>FEE(S) ERRONEOUSLY PAID AS A SMALL ENTITY</u>	<u>FEE ACTUALLY PAID AS A SMALL ENTITY</u>	<u>DEFICIENCY OWED*</u>
<input checked="" type="checkbox"/> Filing fee paid on <u>02/21/2002</u>	\$ <u>370.00</u>	\$ <u>370.00</u>
<input checked="" type="checkbox"/> Fee for excess claims (over 20) paid on <u>02/21/2002</u>	\$ <u>108.00</u>	\$ <u>108.00</u>
<input checked="" type="checkbox"/> Fee for multiple ^{independent} claims paid on <u>02/21/2002</u>	\$ <u>84.00</u>	\$ <u>84.00</u>
<input type="checkbox"/> Extension of time fee paid on _____	\$ _____	\$ _____
<input type="checkbox"/> The issue fee paid on _____	\$ _____	\$ _____
<input type="checkbox"/> _____ maintenance fee (First, second or third) paid on _____	\$ _____	\$ _____
<input type="checkbox"/> Other:		

WARNING: "The deficiency owed for each previous fee erroneously paid as a small entity is the difference between the current fee amount (for other than a small entity) on the date the deficiency is paid in full and the amount of the previous erroneous (small entity) fee payment. The total deficiency payment owed is the sum of the individual deficiency owed amounts for each fee amount previously erroneously paid as a small entity. Where a fee paid in error as a small entity was subject to a fee decrease between the time the fee was paid in error and the time the deficiency is paid in full, the deficiency owed is equal to the amount (previously) paid in error. . . ." 37 C.F.R. § 1.28(c)(2)(i).

NOTE: 37 C.F.R. § 1.28(b)(2): "The date when a deficiency payment is paid in full determines the amount of deficiency that is due pursuant to paragraph (c) of this section."

Total deficiency owed \$ 562.00

NOTE: 37 C.F.R. 1.28(d): "Payment of deficiency operates as notification of loss of status. Any deficiency payment (based on a previous erroneous payment of a small entity fee) submitted under paragraph (c) of this section will be treated under § 1.27(g)(2) as a notification of a loss of entitlement to small entity status."

Payment of Deficiency

5. The total deficiency owed is paid as follows:

- ☒ Attached is a ☒ check ☐ money order in the amount of \$ 562.00 (already included in check for payment of late declaration)
- ☐ Authorization is hereby made to charge the amount of \$ _____
- ☐ to Deposit Account No. _____
- ☐ to Credit card as shown on the attached credit card information authorization form PTO-2038.

WARNING: Credit card information should not be included on this form as it may become public.

- ☒ Charge any additional fees required by this paper or credit any overpayment in the ~~manner authorized above~~ to Deposit Account No. 19-0590.

A duplicate of this paper is attached.

Reg. No.: 24,518

Tel. No.: (408) 297-9733

Customer No.: 003897

Thomas Schneck
SIGNATURE OF PRACTITIONER

Thomas Schneck
(type or print name of practitioner)

P.O. Box 2-E
P.O. Address

San Jose, CA 95109-0005



Practitioner's Docket No. SEN-020

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Adam E. Norton et al.

Serial No.: 10 / 081,078 Group No.: 2877

Filed: February 21, 2002 Examiner:

For: SMALL-SPOT SPECTROMETRY INSTRUMENT WITH REDUCED
POLARIZATION AND MULTIPLE-ELEMENT DEPOLARIZER THEREFOR

Box Missing Part

Assistant Commissioner for Patents

Washington, D.C. 20231

**COMPLETION OF FILING REQUIREMENTS
— NONPROVISIONAL APPLICATION**

(check and complete this item, if applicable)

- completes filing of the
- I. ☒ This ~~refers to the Notice to File Missing Parts of Application (PTO-1533)~~
~~mailed~~ _____

NOTE: If these papers are filed before the office letter issues, adequate identification of the original papers should be made, e.g., in addition to the name of the inventor and title of invention, the filing date based on the "Express Mail" procedure, the serial number from the return post card or the attorney's docket number added.

- ☒ A copy of the Notice to File Missing Parts of Application—Filing Date
Granted (Form PTO-1533) ~~is enclosed~~ was not received. This submission is made per 37 CFR 1.53.

NOTE: The PTO requires that a copy of Form PTO-1533 be returned with the response to the notice to file missing parts to the application.

CERTIFICATE OF MAILING/TRANSMISSION (37 C.F.R. 1.8(a))

I hereby certify that this correspondence is, on the date shown below, being:

MAILING

- ☒ deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231.

FACSIMILE

- ☐ transmitted by facsimile to the Patent and Trademark Office.

Date: April 12, 2002

Merle P. Garcia
Signature

Merle P. Garcia

(type or print name of person certifying)

DECLARATION OR OATH

- II. ☒ No declaration or oath was filed. Enclosed is the original declaration or oath for this application.

NOTE: If the correct inventor or inventors are not named on filing a nonprovisional application under § 1.53(b) without an executed oath or declaration under § 1.63, the later submission of an executed oath or declaration under § 1.63 during the pendency of the application will act to correct the earlier identification of inventorship. 37 C.F.R. § 1.48(f)(1).

OR

- ☐ The declaration or oath that was filed was determined to be defective. A new original oath or declaration is attached.

NOTE: For surcharge fee for filing declaration after filing date complete item VI(3) below.

NOTE: Acceptable minimums in the declaration for identification of the specification to which it applies are the name of the inventor and (1) serial number (2) attorney docket number which was on the application as filed and the filing date (3) title of the invention and filing date (4) title of invention and reference to a specification which is attached to the declaration at the time of execution and filed with the declaration or (5) title of invention and a statement by a registered attorney that the application filed in the PTO is the application which the inventor executed by signing the declaration. If identification (4) is used it must be accompanied by a statement that the "attached" specification is a copy of the specification and any amendments thereto which were filed in the PTO to obtain the filing date; such a statement must be a verified statement if made by a person not registered to practice before the PTO. Notice of September 12, 1983 (1035 O.G. 3).

NOTE: Another minimum found acceptable in the declaration is the filing date (i.e., date of express mail) and the express mail number, useful where the serial number is not yet known. But note the practice where the express mail deposit is a Saturday, Sunday or holiday within the District of Columbia. 37 C.F.R. 1.10(c).

(complete (c) or (d), if applicable)

Attached is a

- (c) ☐ Statement by a registered attorney that the application filed in the PTO is the application that the inventor executed by signing the declaration.
- (d) ☐ Statement that the "attached" specification is a copy of the specification and any amendments thereto that were filed in the PTO to obtain the filing date.

AMENDMENT CANCELLING CLAIMS

- III. ☐ Cancel claims _____ inclusive.

TRANSMITTAL OF ENGLISH TRANSLATION OF NON-ENGLISH LANGUAGE PAPERS

- IV. ☐ Submitted herewith is an English translation of the non-English language application papers as originally filed. Also submitted herewith is a statement by the translator of the accuracy of the translation. It is requested that this translation be used as the copy for examination purposes in the PTO.

NOTE: For fee processing a non-English application, complete item VI(5) below.

NOTE: A non-English oath or declaration in the form provided by the PTO need not be translated. 37 C.F.R. 1.63(b).

SMALL ENTITY STATUS

V.

- ☐ A statement that this filing is by a small entity
(check and complete applicable items)
- ☐ is attached.
- ☐ A separate refund request accompanies this paper.
- ☐ was filed on _____ (original).

COMPLETION FEES

VI.

WARNING: Failure to submit the surcharge fees where required will cause the application to become abandoned. 37 C.F.R. 1.53.

NOTE: For effect on fees of failure to establish status, or change status, as a small entity, see 37 C.F.R. 1.28(a).

1. Filing fee

- ☐ original patent application
(37 C.F.R. 1.16(a)—\$790.00; Small entity—\$395.00) \$ _____
- ☐ design application
(37 C.F.R. 1.16(f)—\$330.00; small entity—\$165.00) \$ _____
- \$ _____

2. Fees for claims

- ☐ each independent claim in excess of 3
(37 C.F.R. 1.16(b)—\$82.00; small entity—\$41.00) \$ _____
- ☐ each claim in excess of 20
(37 C.F.R. 1.16(c)—\$22.00; small entity—\$11.00) \$ _____
- ☐ multiple dependent claim(s)
(37 C.F.R. 1.16(d)—\$270.00; small entity—\$135.00) \$ _____

3. Surcharge fees

- ☐ late payment of filing fee

and/or

- ☒ late filing of original declaration or oath
(37 C.F.R. 1.16(e)—\$130.00; small entity—\$65.00); \$ 130.00

NOTE: Even where a facsimile declaration or oath signed by the inventor(s) was part of the originally filed papers, the surcharge fee is required.

NOTE: If both the filing fee and declaration or oath were missing from the original papers, only one surcharge fee for both need be paid. 37 C.F.R. 1.16(e).

4. ☐ Petition and fee for filing by other than all the inventors or a person not the inventor (37 C.F.R. 1.17(f) and 1.47—\$130.00) \$ _____
5. ☐ Fee for processing an application filed with a specification in a non-English language (37 C.F.R. 1.17(k) and 1.52(d)—\$130.00) \$ _____
6. ☐ Fee for processing and retention of application (37 C.F.R. 1.21(f) and 1.53(d)—\$130.00) \$ _____
7. ☐ Assignment (See "ASSIGNMENT COVER SHEET".) \$ _____

NOTE: 37 C.F.R. 1.21(f) establishes a fee for processing and retaining any application which is abandoned for failing to complete the application pursuant to 37 C.F.R. 1.53(f) and this, as well as, the changes to 37 C.F.R. 1.53 and 1.78 indicate that in order to obtain the benefit of a prior U.S. application, either the basic filing fee or the processing and retention fee of \$ 1.21(f) within 1 year of notification under \$1.53(f) must be paid.

Total completion fees \$ 130.00

EXTENSION OF TIME

VII.

(complete (a) or (b), as applicable)

The proceedings herein are for a patent application, and the provisions of 37 C.F.R. 1.136(a) apply.

- (a) ☐ Applicant petitions for an extension of time, the fees for which are set out in 37 C.F.R. 1.17(a)(1)-(4), for the total number of months checked below:

Extension (months)	Fee for other than small entity	Fee for small entity
<input type="checkbox"/> one month	\$ 110.00	\$ 55.00
<input type="checkbox"/> two months	\$ 400.00	\$ 200.00
<input type="checkbox"/> three months	\$ 950.00	\$ 475.00
<input type="checkbox"/> four months	\$1,510.00	\$ 755.00

Fee \$ _____

If an additional extension of time is required, please consider this a petition therefor.

(check and complete the next item, if applicable)

- ☐ An extension for _____ months has already been secured, and the fee paid therefor of \$ _____ is deducted from the total fee due for the total months of extension now requested.

Extension fee due with this request \$ _____

or

- (b) ☐ Applicant believes that no extension of term is required. However, this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition and fee for extension of time.

TOTAL FEE DUE

VIII.

The total fee due is

Completion fee(s) \$ 130.00

Extension fee (if any) \$ _____

Total Fee Due \$ 130.00

PAYMENT OF FEES

- Please see accompanying

IX.

"Notification of Error in Payment of Fee(s) As A Small Entity".

- ☒ Enclosed is a check in the amount of \$ 692.00 (this includes fee deficiency re large entity status.)
☐ Charge Account No. _____ in the amount of \$ _____
A duplicate of this request is attached.

NOTE: Fees should be itemized in such a manner that it is clear for which purpose the fees are paid. 37 C.F.R. 1.22(b).

Please charge Account No. _____ for any fees that may be due by this paper

AUTHORIZATION TO CHARGE ADDITIONAL FEES

X.

WARNING: Accurately count claims, especially multiple dependent claims, to avoid unexpected high charges if extra claims are authorized.

NOTE: "Amounts of twenty-five dollars or less will not be returned unless specifically requested within a reasonable time, nor will the payer be notified of such amounts; amounts over twenty-five dollars may be returned by check or, if requested, by credit to a deposit account." 37 C.F.R. § 1.26(a).

- ☒ The Commissioner is hereby authorized to charge the following additional fees that may be required by this paper and during the pendency of this application to Account No. 19-0590

☒ 37 C.F.R. 1.16(a), (f) or (g) (filing fees)

☒ 37 C.F.R. 1.16(b), (c) and (d) (presentation of extra claims)

NOTE: Because additional fees for excess or multiple dependent claims not paid on filing or on later presentation must only be paid or these claims cancelled by amendment prior to the expiration of the time period set for response by the PTO in any notice of fee deficiency (37 C.F.R. 1.16(d)), it might be best not to authorize the PTO to charge additional claim fees, except possibly when dealing with amendments after final action.

- ☐ 37 C.F.R. 1.16(e) (surcharge for filing the basic filing fee and/or declaration on a date later than the filing date of the application)
☐ 37 C.F.R. §§ 1.17(a)(1)-(5) (extension fees pursuant to § 1.136(a))
☐ 37 C.F.R. 1.17 (application processing fees)

NOTE: "A written request may be submitted in an application that is an authorization to treat any concurrent or future reply, requiring a petition for an extension of time under this paragraph for its timely submission, as incorporating a petition for extension of time for the appropriate length of time. An authorization to charge all required fees, fees under § 1.17, or all required extension of time fees will be treated as a constructive petition for an extension of time in any concurrent or future reply requiring a petition for an extension of time under this paragraph for its timely submission. Submission of the fee set forth in § 1.17(a) will also be treated as a constructive petition for an extension of time in any concurrent reply requiring a petition for an extension of time under this paragraph for its timely submission." 37 C.F.R. § 1.136(a)(3).

(Completion of Filing Requirements — Nonprovisional Application [3-1]—page 5 of 6)

☐ 37 C.F.R. 1.18 (issue fee at or before mailing of Notice of Allowance, pursuant to 37 C.F.R. 1.311(b))

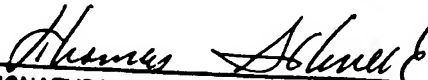
NOTE: Where an authorization to charge the issue fee to a deposit account has been filed before the mailing of a Notice of Allowance, the issue fee will be automatically charged to the deposit account at the time of mailing the notice of allowance. 37 C.F.R. 1.311(b).

NOTE: 37 C.F.R. 1.28(b) requires "Notification of any change in loss of entitlement to small entity status must be filed in the application . . . prior to paying, or at the time of paying . . . issue fee . . ." From the wording of 37 C.F.R. 1.28(b): (a) notification of change of status must be made even if the fee is paid as "other than a small entity" and (b) no notification is required if the change is to another small entity.

Reg. No. 24,518

Tel. No.: (408) 297-9733

Customer No. 003897



SIGNATURE OF PRACTITIONER

Thomas Schneck

(Type or print name of practitioner)

P.O. Box 2-E

P.O. Address

San Jose, CA 95109-0005

Also attached: Copy of filing receipt with corrections.



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov



APPLICATION NUMBER	FILING DATE	GRP ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO	DRAWINGS	TOT CLAIMS	IND CLAIMS
10/081,078	02/21/2002	2877	562 1254	SEN-020	5	32	5

CONFIRMATION NO. 2338

FILING RECEIPT



OC000000007827297

003897
LAW OFFICE OF THOMAS SCHNECK
P.O. BOX 2-E
SAN JOSE, CA 95109-0005

Date Mailed: 04/09/2002

Receipt is acknowledged of this nonprovisional Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Customer Service Center. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).

Applicant(s)

Adam E. Norton, ~~Residence Not Provided~~ Palo Alto, CA;
Kenneth C. Johnson, Santa Clara, CA;
Fred E. Stanke, Cupertino, CA.

Domestic Priority data as claimed by applicant

THIS APPLICATION IS A CIP OF 09/932,548 08/17/2001
WHICH CLAIMS BENEFIT OF 60/226,396 08/18/2000
AND CLAIMS BENEFIT OF 60/350,823 01/18/2002

Foreign Applications

If Required, Foreign Filing License Granted 04/08/2002

Projected Publication Date: 07/18/2002

Non-Publication Request: No

Early Publication Request: No

SMALL ENTITY ** LARGE ENTITY **

- Please see "Notification of Error
in Payment of Fee(s) As A Small Entity".

Title

Small-spot spectrometry instrument with reduced polarization and multiple-element depolarizer
therefor

Preliminary Class



Thomas Schneck
David M. Schneck
Gina McCarthy
Nissa M. Strottman

Law Offices of
THOMAS SCHNECK

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Patents and Trademarks

September 17, 2002

U.S. Patent and Trademark Office
Initial Patent Examiner's
Customer Service Center
Washington, D.C. 20231

Re: Request for Correction of Filing Receipt
U.S. Patent Application
Serial No.: 10/081,078
Filed: February 21, 2002
For: SMALL-SPOT SPECTROMETRY INSTRUMENT
WITH REDUCED POLARIZATION AND
MULTIPLE-ELEMENT DEPOLARIZER THEREFOR
Inventors: Adam E. Norton, Palo Alto, CA;
Kenneth C. Johnson, Santa Clara, CA;
Fred E. Stanke, Cupertino, CA.
Our ref: SEN-020

Dear Sir:

On April 12, 2002 we filed a Completion of Filing Requirements for the above-identified patent application. We submitted an original Declaration executed by the three inventors, and a copy of the filing receipt with corrections. To date, we have not received an updated/corrected filing receipt. In the meantime, the patent application was published on September 12, 2002 under Publication No. US 2002/0126277 A1, erroneously listing only one inventor out of three.

Enclosed is a copy of our transmittal of April 12, 2002 for your reference, as well as a copy of the original declaration filed in this case. Kindly send us a corrected filing receipt.

Respectfully submitted,

CERTIFICATE OF MAILING

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: U.S. Patent and Trademark Office, Office of Initial Patent Examination's Customer Service Center, Washington, D.C. 20231.

Signed: Merle P. Garcia
Typed Name: Merle P. Garcia

Date: September 17, 2002

Thomas Schneck

Reg. No. 24,518

P.O. Box 2-E

San Jose, CA 95109-0005

(408) 297-9733